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In re Application of SUMIYA et al :
U.S. Application No.: 10/572,708 :
PCT Application No.: PCT/JP2004/014910 : DECISION
Int. Filing Date: 08 October 2004 :
Priority Date Claimed: 10 October 2003 :
Attorney Docket No.: 4940/PCT :
For: DIAMOND TOOL, SYNTHETIC SINGLE
CRYSTAL DIAMOND...

This is in response to applicant's "Request for Corrected Notice of Acceptance of Application" filed 16 May 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 08 October 2004, applicant filed international application PCT/JP2004/014910, which claimed priority of an earlier Japan application filed 10 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 10 April 2006.

On 17 March 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 November 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 16 May 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notice of Acceptance contained the following three errors: (1) an incorrect date of completion of all 35 U.S.C. 371 requirements, (2) a failure to indicate receipt of applicant's request for immediate examination, and (3) a failure to indicate receipt of an English translation of annexes (Article 19 amendments).

A review of the application file reveals that the Notice of Acceptance contained erroneous information with regard to items (1) and (2) above. With respect to item (3), the application file contains a translation of the claims filed with the international application and contains a listing of claims as part of a preliminary amendment to a purported translation of the Article 19 amendments. However, the purported translation of the Article 19 amendments is not present. Pursuant to 35 U.S.C. 371(d) and MPEP 1893.01(a)(2), because an English translation of the Article 19 amendments has not been received by the date of commencement of the national stage, the amendments are considered canceled.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED IN PART.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 07 November 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903). The corrected Form PCT/DO/EO/903 should indicate: (1) a date of completion of all 35 U.S.C. 371 requirements of 17 March 2006 and (2) receipt of applicant's express request to begin national examination procedures under 35 U.S.C. 371(f).

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